

**STATEMENT UNDER 37 CFR 3.73(b)**

Applicant/Patent Owner: Medtronic Vascular, Inc.

Application No./Patent No.: 6,914,136 Filed/Issue Date: July 5, 2005

Entitled: Methods and Compositions for Expressing Polynucleotides Specifically in Smooth Muscle Cells in Vivo

Medtronic Vascular, Inc., a Corporation

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or  
2. ☐ an assignee of less than the entire right, title and interest  
(The extent (by percentage) of its ownership interest is \_\_\_\_\_ %)

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 021852, Frame 0703, or for which a copy therefore is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at

Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

2. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at

Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

3. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at

Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

David P. Ruschke  
Signature

January 6, 2009  
Date

David P. Ruschke

7075661746

Printed or Typed Name

Telephone Number

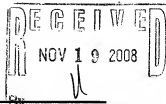
Chief Patent Counsel

Title

TO:MEDTRONIC VASCULAR, INC. COMPANY:3576 UNOCAL PLACE



## UNITED STATES PATENT AND TRADEMARK OFFICE

 UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
 DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE


NOVEMBER 18, 2008

PTAS

\*5007078834\*

 MEDTRONIC VASCULAR, INC.  
 3576 UNOCAL PLACE  
 SANTA ROSA, CA 95403

 UNITED STATES PATENT AND TRADEMARK OFFICE  
 NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES BRANCH, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 11/18/2008

 REEL/FRAME: 021852/0703  
 NUMBER OF PAGES: 11

 BRIEF: MERGER (SEE DOCUMENT FOR DETAILS).  
 DOCKET NUMBER: G487

 ASSIGNOR:  
 SETAGON, INC.

DOC DATE: 10/02/2007

 ASSIGNEE:  
 MEDTRONIC VASCULAR, INC.  
 3576 UNOCAL PLACE  
 SANTA ROSA, CALIFORNIA 95403

 SERIAL NUMBER: 10713244  
 PATENT NUMBER: 7294409  
 TITLE: MEDICAL DEVICES HAVING POROUS LAYERS AND METHODS FOR MAKING SAME

 FILING DATE: 11/13/2003  
 ISSUE DATE: 11/13/2007

 SERIAL NUMBER: 11432281  
 PATENT NUMBER:  
 TITLE: STENT WITH NANOPOROUS SURFACE

 FILING DATE: 05/11/2006  
 ISSUE DATE:

DOCKETED

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*P31015 CIP1*  
SERIAL NUMBER: 10918853 FILING DATE: 08/13/2004  
PATENT NUMBER: ISSUE DATE:  
TITLE: MEDICAL DEVICES HAVING POROUS LAYERS AND METHODS FOR MAKING

*P31015 CIP2*  
SERIAL NUMBER: 11432288 FILING DATE: 05/11/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: MEDICAL DEVICES HAVING POROUS LAYERS AND METHODS FOR MAKING THE SAME

*P31019 CIP*  
SERIAL NUMBER: 11200655 FILING DATE: 08/10/2005  
PATENT NUMBER: ISSUE DATE:  
TITLE: MEDICAL DEVICES HAVING NANOPOROUS LAYERS AND METHODS FOR MAKING THE SAME

*P31019 CIP1*  
SERIAL NUMBER: 11352426 FILING DATE: 02/10/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: METHODS FOR USING MEDICAL DEVICES HAVING NANOPOROUS LAYERS

*P31019 CIP2*  
SERIAL NUMBER: 11352419 FILING DATE: 02/10/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: MEDICAL DEVICES HAVING NANOPOROUS BONDING LAYERS

*P31019 CIP3*  
SERIAL NUMBER: 11352436 FILING DATE: 02/10/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: METHOD FOR LOADING NANOPOROUS LAYERS WITH THERAPEUTIC AGENT

*P31019 CIP4*  
SERIAL NUMBER: 11352427 FILING DATE: 02/10/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: NANOPOROUS LAYERS USING THERMAL DEALLOYING

*P31019 CIP5*  
SERIAL NUMBER: 11352417 FILING DATE: 02/10/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: MEDICAL DEVICES WITH NANOPOROUS LAYERS AND TOPCOATS

*P31019 CIP6*  
SERIAL NUMBER: 11431424 FILING DATE: 05/10/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: NANOPOROUS STENTS WITH MAGNESIUM LEACHING

*P31019 CIP7*  
SERIAL NUMBER: 11431941 FILING DATE: 05/10/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: NANOPOROUS STENTS WITH IMPROVED RADIO-LUCENCY

*P31019 CIP8*  
SERIAL NUMBER: 11431109 FILING DATE: 05/09/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: DEALLOYED NANOPOROUS STENTS

*P31019 CIP9*  
SERIAL NUMBER: 11430510 FILING DATE: 05/09/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: DEALLOYED NANOPOROUS STENTS

*P31020 US*  
SERIAL NUMBER: 11753134 FILING DATE: 05/24/2007  
PATENT NUMBER: ISSUE DATE:  
TITLE: NANOPOROUS STENTS WITH ENHANCED CELLULAR ADHESION AND REDUCED NEOINTIMAL FORMATION

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021852/0703 PAGE 3

P31329  
C 001

SERIAL NUMBER: 11963624 FILING DATE: 12/21/2007  
PATENT NUMBER: ISSUE DATE:  
TITLE: CELL SEEDED EXPANDABLE BODY

P31336

SERIAL NUMBER: 08743902 FILING DATE: 11/06/1996  
PATENT NUMBER: 6197013 ISSUE DATE: 03/06/2001  
TITLE: METHOD AND APPARATUS FOR DRUG AND GENE DELIVERY

P31338  
P31339

SERIAL NUMBER: 10057726 FILING DATE: 01/24/2002  
PATENT NUMBER: 6914136 ISSUE DATE: 07/05/2005  
TITLE: METHODS AND COMPOSITIONS FOR EXPRESSING POLYNUCLEOTIDES SPECIFICALLY IN SMOOTH MUSCLE CELLS IN VIVO

P31341  
J

SERIAL NUMBER: 09807757 FILING DATE: 04/17/2001  
PATENT NUMBER: 6825035 ISSUE DATE: 11/30/2004  
TITLE: COMPOSITIONS AND METHODS FOR MODULATING EXPRESSION WITHIN SMOOTH MUSCLE CELLS

P31342  
S

SERIAL NUMBER: 09600319 FILING DATE: 07/13/2000  
PATENT NUMBER: 6780610 ISSUE DATE: 08/24/2004  
TITLE: IDENTIFICATION OF A SMOOTH MUSCLE CELL (SMC) SPECIFIC SMOOTH MUSCLE HEAVY CHAIN (SM-MHC) PROMOTER/ENHANCER

P31343  
J

SERIAL NUMBER: 10521063 FILING DATE: 10/16/2006  
PATENT NUMBER: ISSUE DATE:  
TITLE: METHODS AND APPARATUSES FOR REPAIRING ANEURYSMS

P31346  
J

SERIAL NUMBER: 10521078 FILING DATE: 08/22/2005  
PATENT NUMBER: ISSUE DATE:  
TITLE: EXPANDABLE BODY HAVING DEPLOYABLE MICROSTRUCTURES AND RELATED METHODS

ASSIGNMENT SERVICES BRANCH  
PUBLIC RECORDS DIVISION

TO:MEDTRONIC VASCULAR, INC. COMPANY:3576 UNOCAL PLACE

## PATENT ASSIGNMENT

Electronic Version v1.1  
Stylesheet Version v1.111/18/2008  
500707883

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	MERGER
EFFECTIVE DATE:	10/02/2007

## CONVEYING PARTY DATA

Name	Execution Date
Setagon, Inc.	10/02/2007

## RECEIVING PARTY DATA

Name:	Medtronic Vascular, Inc.
Street Address:	3576 Unocal Place
City:	Santa Rosa
State/Country:	CALIFORNIA
Postal Code:	95403

## PROPERTY NUMBERS Total: 22

Property Type	Number
Application Number:	10713244
Application Number:	11432281
Application Number:	10918853
Application Number:	11432288
Application Number:	11200855
Application Number:	11352426
Application Number:	11352419
Application Number:	11352436
Application Number:	11352427
Application Number:	11352417
Application Number:	11431424
Application Number:	11431841
Application Number:	11431109
Application Number:	11430510

CH \$880.00 10713244

TO:MEDTRONIC VASCULAR, INC. COMPANY:3576 UNOCAL PLACE

Application Number:	11753134
Application Number:	11963624
Application Number:	06743902
Application Number:	10057726
Application Number:	09807757
Application Number:	09600319
Application Number:	10521063
Application Number:	10521078

## CORRESPONDENCE DATA

Fax Number: (707)543-5420

*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*

Phone: (707) 591-2515

Email: kimberly.melvin@medtronic.com

Correspondent Name: Medtronic Vascular, Inc.

Address Line 1: 3576 Unocal Place

Address Line 4: Santa Rosa, CALIFORNIA 95403

ATTORNEY DOCKET NUMBER:	G487
NAME OF SUBMITTER:	Alan M. Krubiner

Total Attachments: 9

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**EXECUTION COPY**

**AGREEMENT AND PLAN OF MERGER**  
**BY AND AMONG**  
**MEDTRONIC VASCULAR, INC**  
**CE SYSTEMS ACQUISITION CORPORATION,**  
**SETAGON, INC.,**  
**NANOMEDSYSTEMS, INC.**  
**AND**  
**MARK G. FRANTZ, AS STOCKHOLDER REPRESENTATIVE**

**October 2, 2007**

## AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT is dated as of October 2, 2007, by and among Medtronic Vascular, Inc., a Delaware corporation ("Parent"), CE Systems Acquisition Corporation, a Delaware corporation and wholly-owned subsidiary of Parent ("Merger Subsidiary"), Setagon, Inc., a Delaware corporation (the "Company"), NanoMedSystems, Inc., a Delaware corporation (the "NMSI"), and Mark G. Frantz as the Stockholder Representative (as defined herein).

WHEREAS, the respective Boards of Directors of Merger Subsidiary and the Company have approved and declared advisable the business combination transaction contemplated by this Agreement, in which Merger Subsidiary will merge with and into the Company upon the terms and subject to the conditions set forth herein (the "Merger");

WHEREAS, in connection with the Merger, the Company will (i) transfer certain of the Company's assets and liabilities, other than the Company Intellectual Property, to NMSI, and (ii) grant NMSI a license to use certain Company Intellectual Property pursuant to the Transfer, Assumption and Services Agreement (defined herein); and

WHEREAS, the parties hereto desire to make certain representations, warranties, and agreements in connection with the Merger and also to prescribe various conditions to the Merger.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual representations, warranties, covenants, and agreements contained herein, the parties hereto agree as follows:



**ARTICLE II**  
**THE MERGER: CONVERSION OF SHARES**

2.1. **The Merger.** Subject to the terms and conditions of this Agreement, at the Effective Time (as defined in Section 2.2 hereof), Merger Subsidiary shall be merged with and into the Company in accordance with the provisions of the DGCL, whereupon the separate corporate existence of Merger Subsidiary shall cease, and the Company shall continue as the surviving corporation as a wholly-owned subsidiary of Parent (the "Surviving Corporation"). From and after the Effective Time, the Surviving Corporation shall possess all the rights, privileges, powers, and franchises and be subject to all the restrictions, disabilities, and duties of the Company and Merger Subsidiary, all as more fully described in the DGCL.

2.2. **Effective Time.** As soon as practicable after each of the conditions set forth in Article VII has been satisfied or waived (other than those conditions to be satisfied at the Closing), on the Closing Date (as defined in Section 3.1), a certificate of merger satisfying the applicable requirements of the DGCL (the "Certificate of Merger") shall be duly executed on behalf of the Company and delivered to the Secretary of State of the State of Delaware for filing in accordance with the DGCL. The Merger shall become effective at the time such filing is made or, if agreed to by Parent and the Company, such later time or date set forth in the Certificate of Merger (the "Effective Time").

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and Plan of Merger as of the date first above written.

Parent:

MEDTRONIC VASCULAR, INC.

By: 

Name: Scott Ward

Title: Senior Vice President and President  
Medtronic CardioVascular

Merger Subsidiary:

CE SYSTEMS ACQUISITION  
CORPORATION

By: 

Name: Scott Ward

Title: Senior Vice President and President  
Medtronic CardioVascular

Company:

SETAGON, INC.

By: 

Name: Mark G. Frantz

Title: CHAIRMAN/CEO

NanoMedSystems, Inc.:

NANOMEDSYSTEMS, INC.

By: 

Name: Dan O'Connell

Title: President

Stockholder Representative:

  
Mark G. Frantz

(Signature page to Merger Agreement)

# Delaware

PAGE 1

*The First State*

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"CE SYSTEMS ACQUISITION CORPORATION", A DELAWARE CORPORATION,

WITH AND INTO "SETAGON, INC." UNDER THE NAME OF "SETAGON, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE THIRTIETH DAY OF OCTOBER, A.D. 2007, AT 10:39 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

3275441 8100M

071172328



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

AUTHENTICATION: 6118676

DATE: 10-31-07

**CERTIFICATE OF MERGER  
OF  
SETAGON, INC.  
(A DELAWARE CORPORATION)  
AND  
CE SYSTEMS ACQUISITION CORPORATION  
(A DELAWARE CORPORATION)**

Pursuant to the provisions of Section 251 of the Delaware General Corporation Law (the "DGCL"), the following Certificate of Merger is executed as of October 30, 2007:

**FIRST:** The names of the constituent corporations to the merger are:

- (a) Setagon, Inc., a Delaware corporation; and
- (b) CE Systems Acquisition Corporation, a Delaware corporation.

**SECOND:** An Agreement and Plan of Merger, dated October 2, 2007, was approved, adopted, certified, executed and acknowledged by each of Setagon, Inc. and CE Systems Acquisition Corporation in accordance with the provisions of the DGCL.

**THIRD:** The name of the surviving corporation is Setagon, Inc.

**FOURTH:** The merger shall be effective at the time this Certificate of Merger is filed with the Delaware Secretary of State.

**FIFTH:** The Amended and Restated Certificate of Incorporation attached hereto as Exhibit A shall be the Certificate of Incorporation of the surviving corporation as of the effective date of the merger.

**SIXTH:** The Board of Directors of CE Systems Acquisition Corporation shall be the Board of Directors of the surviving corporation as of the effective date of the merger.

**SEVENTH:** An executed copy of the Agreement and Plan of Merger is on file at the offices of Setagon, Inc. located at 3576 Unocal Place, Santa Rosa, California and shall be furnished, on request and without cost, to any stockholder of any constituent corporation.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Setagon, Inc. has executed this Certificate of Merger as of the date first set forth above.

**SETAGON, INC.**

By: /s/ Mark G. Frantz

Name: Mark G. Frantz

Title: Chairman and Chief Executive Officer

4271788\_1.DOC

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
SETAGON, INC.**

**ARTICLE 1 - NAME**

The name of the corporation shall be Setagon, Inc.

**ARTICLE 2 - REGISTERED OFFICE AND AGENT**

The address of the registered office of the corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

**ARTICLE 3 - PURPOSES**

The nature of the business or purposes to be conducted or promoted by the corporation is to engage in any lawful acts and activities for which corporations may be organized under the Delaware General Corporation Law.

**ARTICLE 4 - STOCK**

The aggregate number of shares the corporation has authority to issue shall be 1,000 shares of Common Stock, \$.001 par value. Holders of Common Stock shall be entitled to one vote for each share of Common Stock held of record.

**ARTICLE 5 - RIGHTS OF STOCKHOLDERS**

5.1) **No Preemptive Rights.** No holder of shares of the corporation of any class now or hereafter authorized has any preferential or preemptive right to subscribe for, purchase or receive any shares of the corporation of any class now or hereafter authorized, or any options or warrants for such shares, which may at any time be issued, sold or offered for sale by the corporation.

5.2) **No Cumulative Voting Rights.** No holder of shares of the corporation of any class now or hereafter authorized shall be entitled to cumulative voting.

#### ARTICLE 6 - MEETINGS AND BOOKS

6.1) Meetings of Stockholders and Election of Directors. Meetings of stockholders may be held within or outside the State of Delaware, as the Bylaws may provide. Elections of directors need not be by written ballot unless and except to the extent that the Bylaws so provide.

6.2) Corporate Books. The books of the corporation may be kept within or (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the Bylaws of the corporation.

#### ARTICLE 7 - LIMITATION OF DIRECTOR LIABILITY; INDEMNIFICATION

7.1) Limitation of Liability. To the fullest extent permitted by the Delaware General Corporation Law as the same exists or as may hereafter be amended, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director.

7.2) Indemnification. The corporation may indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director, officer, employee, advisor or consultant of the corporation or any predecessor of the corporation or serves or served at any other enterprise as a director, officer or employee at the request of the corporation or any predecessor to the corporation.

7.3) Amendment of this Article. Neither any amendment nor repeal of this Article 7, nor the adoption of any provision of this corporation's Certificate of Incorporation inconsistent with this Article 7, shall eliminate or reduce the effect of this Article 7, in respect of any matter occurring, or any action or proceeding accruing or arising or that, but for this Article 7, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

#### ARTICLE 8 - BYLAWS

The Board of Directors is expressly authorized to make, alter and repeal Bylaws of this corporation, subject to the power of the stockholders to change or repeal such Bylaws and subject to any other limitations on such authority provided by the Delaware General Corporation Law.

TO: MEDTRONIC VASCULAR, INC. COMPANY: 3576 UNOCAL PLACE

**UNITED STATES PATENT AND  
TRADEMARK OFFICE****Facsimile Transmission**

To:                      Name:                      MEDTRONIC VASCULAR, INC.  
                            Company:                      3576 UNOCAL PLACE  
                            Fax Number:                      17075435420  
                            Voice Phone:

From:                      Name:                      ASSIGNMENT SERVICES BRANCH  
                            Voice Phone:                      571-272-3350

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

**Fax Notes:**

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Pg#	Description
1	Cover Page
2	233.TXT
5	Document 1, Batch 1477359

**USPTO ASSIGNMENT SYSTEM PROCESSING**

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Date and time of transmission: Wednesday, November 19, 2008 2:30:08 PM  
Number of pages including this cover sheet: 06

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